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10/614,856	07/09/2003	Keith Istvan Farkas	200312030-1	8159

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FORT COLLINS, CO 80527-2400

EXAMINER
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ALMATRAHI, FARIS S

ART UNIT	PAPER NUMBER
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3627

NOTIFICATION DATE	DELIVERY MODE
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09/23/2008

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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<b>Office Action Summary</b>	<b>Application No.</b> 10/614,856	<b>Applicant(s)</b> FARKAS ET AL.	
	<b>Examiner</b> FARIS ALMATRAHI	<b>Art Unit</b> 3627	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 22 May 2008.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-12 and 37-54 is/are pending in the application.
- 4a) Of the above claim(s) 43-54 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-12 and 37-42 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Status of the Application***

1. This action is in reply to applicant amendment filed May 22, 2008.
2. Claim 1 has been amended.
3. Claims 13-36 have been cancelled.
4. Claims 37-54 are new.
5. Claims 1-12 and 37-54 are pending in this application.

### ***Restriction by Original Presentation***

1. Newly submitted claims 43-54 are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: New claims are directed to an imaging reader device configured to obtain visual images of the identification devices.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 43-54 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

***Claim Rejections - 35 USC § 112***

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. **Claims 41-42** are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

8. **Claim 41** recite the limitations "wherein the reader device comprises an imaging device positioned on one of a ceiling and a wall of the room". The limitation as phrased is viewed to be vague and indefinite because it is unclear what the applicant is referring to. It is unclear if the applicant is implying that the imaging device is positioned on a ceiling or a wall of the room. Claim discloses an imaging device limiting the position of the imaging device to one location and claim recites positioning the device on the wall and ceiling. Applicant is requested to construct claims eliminating ambiguity and clarifying what he is referring to.

***Claim Rejections - 35 USC § 103***

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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10. **Claims 1-10 and 37-40** are rejected under 35 U.S.C 103(a) as being unpatentable over Kleinschnitz (US Pat No. 5,546,315) in view of Gelbman (US Publication No. 2001/0020935 A1).

11. Regarding claim 1, Kleinschnitz discloses a system comprising: a plurality of identification devices affixed to respective associated components, said plurality of identification devices being configured to communicate identification information relating to the respective associated components (Column 8 lines 12-29); a reader device configured to substantially autonomously receive the identification information from the identification device (Column 8 lines 12-29); means for identifying the locations of the identification devices from the identification information received by the reader device from the plurality of identification devices (Column 4 lines 33-44); and a controller configured to communicate with the reader device and compile the identification information received from the reader device and to communicate with the means for identifying the locations of the identification devices to maintain an inventory of the components (Column 8 lines 12-29, Column 9 lines 22-36).

12. Kleinschnitz fails to explicitly disclose a system wherein identification devices comprise respective digital displays configured to display the identification information.

13. However, Gelbman discloses a system wherein identification devices comprise respective digital displays configured to display the identification information (Abstract, Paragraph [0010]);

14. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use the teachings of Gelbman in the device of

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Kleinschnitz reference to include a system wherein identification devices comprise respective digital displays configured to display the identification information, for the advantage of providing a human or machine readable visual display of identification information (Gelbman, Paragraph [0007]).

15. Regarding claim 2, Kleinschnitz discloses a system further comprising: a memory accessible by said controller, wherein said controller is configured to store the identification information and the locations of the identification devices in the memory (Column 8 lines 12-29).

16. Regarding claim 3, Kleinschnitz discloses a system wherein the components comprise electronic devices for use in data centers (Abstract).

17. Regarding claim 4, Kleinschnitz discloses a system wherein the identification devices comprise labels affixable to the components, said labels having identifying indicia displayed thereon (Column 8 lines 12-29).

18. Regarding claim 5, Kleinschnitz discloses a system wherein the identifying indicia comprises at least one of text, barcode, or a display on a screen (Column 8 lines 12-29).

19. Regarding claim 6, Kleinschnitz discloses a system wherein the identification devices comprise relatively distinctive identifying characteristics, said characteristics comprising at least one of color, composition, and style (Column 8 lines 12-29, any physical identification device comprises characteristics of color, composition and style).

20. Regarding claim 7, Kleinschnitz discloses a system further comprising: a data transmitting device configured to transmit data to the identification devices; and wherein

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the identification devices comprise electronic apparatuses configured to receive data from the data transmitting device (Figure 4, Column 7 line 62 – Column 8 line 29).

21. Regarding claim 8, Kleinschnitz discloses a system wherein the reader device comprises at least one of an imaging device, an infrared reader, and an apparatus configured to wirelessly communicate with the identification devices (Column 8 lines 12-29, bar code reader reads on infrared reader).

22. Regarding claim 9, Kleinschnitz discloses a system wherein the reader device comprises an information gathering device located on at least one of a wall, ceiling, or floor of the room (Column 8 lines 12-38).

23. Regarding claim 10, Kleinschnitz discloses a system further comprising: a robotic device having a movable arm and being configured to travel through the room, wherein the reader device is attached to the movable arm of the robotic device (Column 3 lines 42-49).

24. Regarding claims 37-39, Kleinschnitz fails to explicitly disclose a system wherein each of the plurality of identification devices further comprises respective input modules configured to enable receipt of the identification information of the respective associated components.

25. However, Gelbman discloses a system wherein each of the plurality of identification devices further comprises respective input modules configured to enable receipt of the identification information of the respective associated components (Abstract, Paragraph [0010]).

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26. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use the teachings of Gelbman in the device of Kleinschnitz reference to include a system wherein each of the plurality of identification devices further comprises respective input modules configured to enable receipt of the identification information of the respective associated components, for the advantage of providing a human or machine readable visual display of identification information (Gelbman, Paragraph [0007]).

27. Regarding claim 40, Kleinschnitz fails to explicitly disclose a system wherein each of the plurality of identification devices further comprises respective output modules configured to wirelessly transmit the identification information.

28. However, Gelbman discloses a system wherein each of the plurality of identification devices further comprises respective output modules configured to wirelessly transmit the identification information (Abstract, Paragraph [0010]);

29. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use the teachings of Gelbman in the device of Kleinschnitz reference to include a system wherein each of the plurality of identification devices further comprises respective output modules configured to wirelessly transmit the identification information, for the advantage of providing a human or machine readable visual display of identification information (Gelbman, Paragraph [0007]).



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30. **Claims 11-12** are rejected under 35 U.S.C 103(a) as being unpatentable over Kleinschnitz (US Pat No. 5,546,315) in view of Gelbman (US Publication No. 2001/0020935 A1) further in view of Sims et al. (US Pat No. 5,434,775).

31. Regarding Claim 11, Kleinschnitz fails to explicitly disclose a system wherein the means for identifying the locations of the identification devices comprises labels affixed at various positions of the room, said labels including indicia identifying the locations of the labels.

32. However, Sims discloses a system wherein the means for identifying the locations of the identification devices comprises labels affixed at various positions of the room, said labels including indicia identifying the locations of the labels (Abstract);

33. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use the teachings of Sims in the device of Kleinschnitz reference to include a system wherein the means for identifying the locations of the identification devices comprises labels affixed at various positions of the room, said labels including indicia identifying the locations of the labels, for the advantage of tracking the locations of devices in stored in various areas (Sims, Column 1 lines 5-9).

34. Regarding Claim 12, Kleinschnitz fails to explicitly disclose a system wherein the means for identifying the locations of the identification devices comprises location aware devices configured to determine their locations with respect to other location aware devices and to a fixed reference point.

35. However, Sims discloses a system wherein the means for identifying the locations of the identification devices comprises location aware devices configured to

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determine their locations with respect to other location aware devices and to a fixed reference point (Abstract, Column 1 lines 50-66).

36. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use the teachings of Sims in the device of Kleinschnitz reference to include a system wherein the means for identifying the locations of the identification devices comprises location aware devices configured to determine their locations with respect to other location aware devices and to a fixed reference point, for the advantage of tracking the locations of devices in stored in various areas (Sims, Column 1 lines 5-9).

37. **Claims 41-42** are rejected under 35 U.S.C 103(a) as being unpatentable over Kleinschnitz (US Pat No. 5,546,315) in view of Gelbman (US Publication No. 2001/0020935 A1) further in view of Creager et al. (US Publication No. 2003/0106937 A1).

38. Regarding claims 41-42, Kleinschnitz fails to explicitly disclose a system wherein the reader device comprises an imaging device positioned on one of a ceiling and a wall of the room, wherein the imaging device is configured to obtain images of the plurality of identification devices, and wherein the means for identifying is further configured to read the identification information from the images of the plurality of the identification devices.

39. However, Creager discloses a system wherein the reader device comprises an imaging device positioned on one of a ceiling and a wall of the room, wherein the imaging device is configured to obtain images of the plurality of identification devices, and wherein the means for identifying is further configured to read the identification

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information from the images of the plurality of the identification devices (Abstract, Paragraph [0025]).

40. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use the teachings of Gelbman in the device of Kleinschnitz reference to include a system wherein the reader device comprises an imaging device positioned on one of a ceiling and a wall of the room, wherein the imaging device is configured to obtain images of the plurality of identification devices, and wherein the means for identifying is further configured to read the identification information from the images of the plurality of the identification devices, for the advantage of providing a visually identifying and recognizing of identification information.

### ***Response to Arguments***

41. Applicant's arguments filed on May 22, 2008 have been fully considered but they are not persuasive

42. In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, it would be

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extremely advantageous to incorporate the teachings of Sims into the disclosure of Kleinschnitz, for the purpose of tracking and locating components located in relative positions to a fixed location. Therefore, in view of the above evidence, the combination of Kleinschnitz in view of further in view of Sims still meet the scope of the limitations as currently claimed.

Furthermore, KSR forecloses the argument that a specific teaching, suggestion, or motivation is required to support a finding of obviousness. See the recent Board decision *Ex parte Smith*, -- USPQ2d--, slip op. at 20, (Bd. Pat. App. & Interf. June 25, 2007) (citing *KSR*, 82 USPQ2d at 1396).

### **Conclusion**

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Faris Almatrahi whose telephone number is (571)270-3326. The examiner can normally be reached on Monday to Friday 9:00 AM - 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ryan Zeender can be reached on (571) 272-6790. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Faris Almatrahi  
Examiner  
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